



Taking the Lead on Museum Property Acts

COSMA Webinar | May 14, 2024

Iowa Museum Association

1. Why are you reviewing/revising?
2. Who should have input? Coalesce a committee around this project
3. How will this work? What does the process look like?
4. What is your goal? Share your revised legislation with stakeholders and provide opportunity for comment.
5. When is the right time to introduce the revised legislation?
6. Share with and seek support from stakeholders in the form of letters and legislator contacts.

(7 minute video, flow chart, proposed legislation)

If you were unable to participate in the December 2023 review of the proposed revisions and would like to read the complete proposed draft, please contact Director@iowamuseums.org for a copy.

Oklahoma Museums Association

Best Practice Only - No legislation at this time

Guidelines Relating to Unclaimed, Undocumented and Abandoned Property - Adopted 2012

After two years of the OMA Abandoned Property Task Force conducting extensive research and meetings with Oklahoma museum professionals, the Oklahoma Museums Association Board of Directors adopted the Task Force recommended Guidelines Relating to Unclaimed, Undocumented and Abandoned Property at the September 26, 2012 meeting. These guidelines, developed from other state best practice models, Oklahoma museum professionals input and legal counsel are intended for Oklahoma museums to use as a framework for handling unclaimed, undocumented and abandoned property.

The Oklahoma Museums Association would like to thank:

OMA Abandoned Property Task force members Kristin Mravinec, Chair; Jennifer Holt and Delaynna Trim

Attorney, Michael Joseph, McAfee & Taft

Law Student, Charlotte Hale, University of Tulsa College of Law

The many Oklahoma museum professionals provided input and encouragement to this project.

Download the Guidelines at OKMuseums.org/collections

Oklahoma Museums Association

Issue

Approximately 38 states (in 2011) have enacted statutes or laws enabling museums to resolve the problem of unclaimed and undocumented property. Without such legislation, museums may be unwilling to deal with the unclaimed and undocumented property because of potential liabilities should the original owner appear and prove ownership.

Much of the unclaimed and undocumented property currently in museums has been held for decades and the property arrived in the museum prior to the now common use of written loan agreements, temporary deposit receipts and other documentation. Without legal title to unclaimed and undocumented property, museums can only make limited use of these items while bearing all the costs and burdens of providing storage space, record keeping, climate control, security, inventory, insurance, etc.

When dealing with old loans, the basic legal relationship between the lender and the museum is a “bailment,” under which the museum (“bailee” or borrower) generally has the obligation to care for the property until the lender (“bailor”) reclaims it. This obligation can go on indefinitely. The key to resolving the old loan dilemma is for the museum to break the bailment relationship as soon as possible. In states without specific statutes or laws, “common law” principles usually prevail.

Current Law in Oklahoma

Pursuant to section 90-683.2(c) of the Oklahoma statutes:

“Museums shall not be subject to the provisions of the Uniform Unclaimed Property Act, but a museum may avail itself of the provisions of this act by complying with the requirements of this act.” *It is not clear whether the Oklahoma legislature intended for museums to use the provisions under the Unclaimed Property Act to resolve old loan issues.*

Oklahoma Museums Association

Potential Opposition to Oklahoma Museum Proposed Property Guidelines

The guidelines could be viewed as museums invoking “eminent domain” by “taking” title to property that belongs to private individuals. In the majority of cases where the guidelines would be utilized, the property has been held by the museum for many years and has been trying to responsibly resolve outstanding problems. In some cases the notification process will bring forth the rightful owner and the museum can return the property or negotiate a donation or loan for a specified amount of time.

However, unclaimed and undocumented property left in museums has little or no value, which is why the property owner is not interested in return. Many cases of unclaimed and undocumented property come to the attention of museums when the museum finds that the property no longer is appropriate for its purposes, or during inventories or exhibit planning when property and paperwork are looked at more closely.

A museum should not be required to spend financial resources to care for property it may not want to retain, on which it does not have current loan agreements, and/or on which it owns. The notification mechanism in the proposed guidelines is based on common law to provide reasonable notice to owners and to require diligent effort by museums.

Oklahoma Museums Association

Next Steps

- OMA Advocacy Committee agreed to take on this topic for upcoming legislative session(s)
- Appoint OMA Abandoned Property Task Force Committee 2.0 in June 2024 (may consider new name)
- Listen to our Oklahoma museums and their current needs, especially collections professionals
- Research other legislation around the country
- Learn from our COSMA colleagues experience
- Talk to stakeholders and confirm Author(s) of legislative bill in House and Senate
- Write proposed legislation language with legal (OMA and legislative)
- Gather legislative support from a conservative legislature (House and Senate) and conservative Governor
- Have OMA members advocate for legislation with their legislators and Governor
- Pass legislation and have Governor sign into law
- Get the word out to museums
- Celebrate success

Museums Alaska

Updates to Property Acts

Undocumented Property Act: [14.57.210](#)

(b) To acquire title under (a) of this section, the museum shall publish a notice at least once a week for four consecutive weeks **in a newspaper of general circulation in the judicial district where the museum is located.** The notice must include

- (1) a brief and general description of the property;
- (2) the date or approximate date, if known, of the acquisition of the property by the museum;
- (3) the name, address, and telephone number of the museum representative to contact for more information or to make a claim of ownership;
- (4) the date of the last publication of the notice under this subsection; and
- (5) a statement that the museum will acquire title to the property if a valid claim of an owner to the property is not received by the museum within 45 days from the date of the last publication of the notice under this subsection.

Museums Alaska

Updates to Property Acts

Updated Act: [HB 231](#)

(b) To acquire title under (a) of this section, the museum shall publish a notice for at least four consecutive weeks on a **dedicated Internet webpage maintained by the museum responsible for the undocumented property and at least once a week for four consecutive weeks in either a newspaper of general circulation in the judicial district where the museum is located or on a social media account maintained by the museum.** The notice must include

(1) a brief and general description of the property;

(2) the date or approximate date, if known, of the acquisition of the property by the museum;

(3) the name, address, **electronic mail address**, and telephone number of the museum representative to contact for more information or to make a claim of ownership;

(4) the initial date of publication **on the Internet webpage [DATE OF THE LAST PUBLICATION OF THE NOTICE UNDER THIS SUBSECTION]**; and

(5) a statement that the museum will acquire title to the property if a valid claim of an owner to the property is not received by the museum within 45 days from the date of the last publication of the notice under this subsection.

Museums Alaska

Updates to Property Acts

How Did We Decide on the Changes

I reached out to as many collections people as I could think of in our state to set up a meeting to talk about the newspaper requirement in the undocumented property statute.

We discussed the current language and came up with recommended edits.

Our Advocacy Chair called her son and asked him to get his boss (Representative Carrick) to introduce a bill with edits to the statute.

I sent our edits to him. He sent them to Leg Legal to write the bill.

I sent the draft to the collections group. They had further edits. I sent those edits to Carrick's office.

The second draft was approved by the collections folks. It was unfortunately a fast turnaround time and close to the holidays, so we weren't able to meet again, but everyone seems pleased with the changes, so we moved forward and the bill was introduced.

We then asked several museums to send support letters to Representative Carrick's office to be included in the supporting documents for the bill.

Museums Alaska

Updates to Property Acts

Alaska State Government

The Alaska Legislature is composed of two bodies: There are 40 members in the House of Representatives and 20 members in the Senate.

Representatives have two year terms. The House consists of 22 Republicans, 13 Democrats, 1 independent, 4 non-affiliated. Of the forty Representatives, 15 are women and 25 are men.

Senators have four-year terms and half are up for election every two years. The Senate consists 11 Republicans and 9 Democrats. Of the twenty Senators, 5 are women and 15 are men.

The governor is a Republican. His second and last term ends in 2026.

The legislature convenes at the capitol each year on the third Tuesday in January. Each legislature has a duration of two years and consists of a "First Regular Session" that meets in odd-numbered years, a "Second Regular Session" that meets in even-numbered years and any special session that the governor or legislature calls. The first and second regular sessions are limited in statute to 90 days (AS 24.05.150), but the constitution allows for 121 days (Article 2, Section 8).

Museums Alaska

Updates to Property Acts

Juneau Fly-in

We set a date for our fly-in based on board availability and wanted to schedule them for earlier in the session. We began calling offices to set up meetings in mid-January. We were able to secure 50 meetings out of 60 possible. We decided not to try to set up meetings with the Governor or Vice Governor.

January 31 - Advocacy Chair hosted a training on the issues at one of the airbnbs. That afternoon, we had our first three meetings. I went to all of them as the person who knew the most about the meetings and everyone had a chance to try out their advocacy skills. Had a celebratory drink at Almaga. I left my car in the Alaska State Libraries, Archives, and Museums garage past closing (4pm) and they had to come let me out in the snow. Whoops!

February 1 - A full day of meetings from 8am-4:30pm.

February 2 - A few more meetings (two rescheduled) and we all flew out.

We paid for everyone's travel, lodging, per diem, and two rental cars.

Five board members (out of 9) participated. Originally it was six, but one backed out.

- One already lived in Juneau, so it was one less person to pay for.
- One couldn't participate because of visa issues (she's British).

Museums Alaska

Updates to Property Acts

Lessons Learned

- **Find someone to introduce the bill who is in the majority.**
 - We used a Democrat representative because of our connections. Representative Carrick is pretty new and very liberal.
 - When we got to Juneau, many Republicans were confused as to why we used that office and had less than cooperative things to say about it. They were technically on board with the bill, but we not on board with giving Representative Carrick a win.
- **Find a Senator and a Representative to introduce the bill in both houses.**
 - We were told that didn't need a companion bill in the Senate, which was technically true. However, a Senator let me know that the Representative may have told us that because they wanted the win. If the Senate Bill passes, than the Senator that introduced it gets the credit. Same with the House bill. With no Senate bill, there's no chance of losing credit. Don't get caught up in politics.
 - If you don't have strong contacts, doing a fly-ins gets you those contacts. We had several offices offer to help us next year.
- **Introduce the bill in the first session, not the second session.**
 - By the time we were talking to Senators about introducing a companion bill, most of them had already maxed out on the number of bills they were allowed to introduce.
- **Have examples of real-life undocumented property from museums in the state.**
 - Not only something found in collections storage that wasn't documented properly, but also something that was left at the door or front desk of the museum (which is the example that resonated most with the people we were meeting with).
 - I started using an example from one of my meeting partners' museums, but we should have gone in with those examples ready.

Museums Alaska

Updates to Property Acts

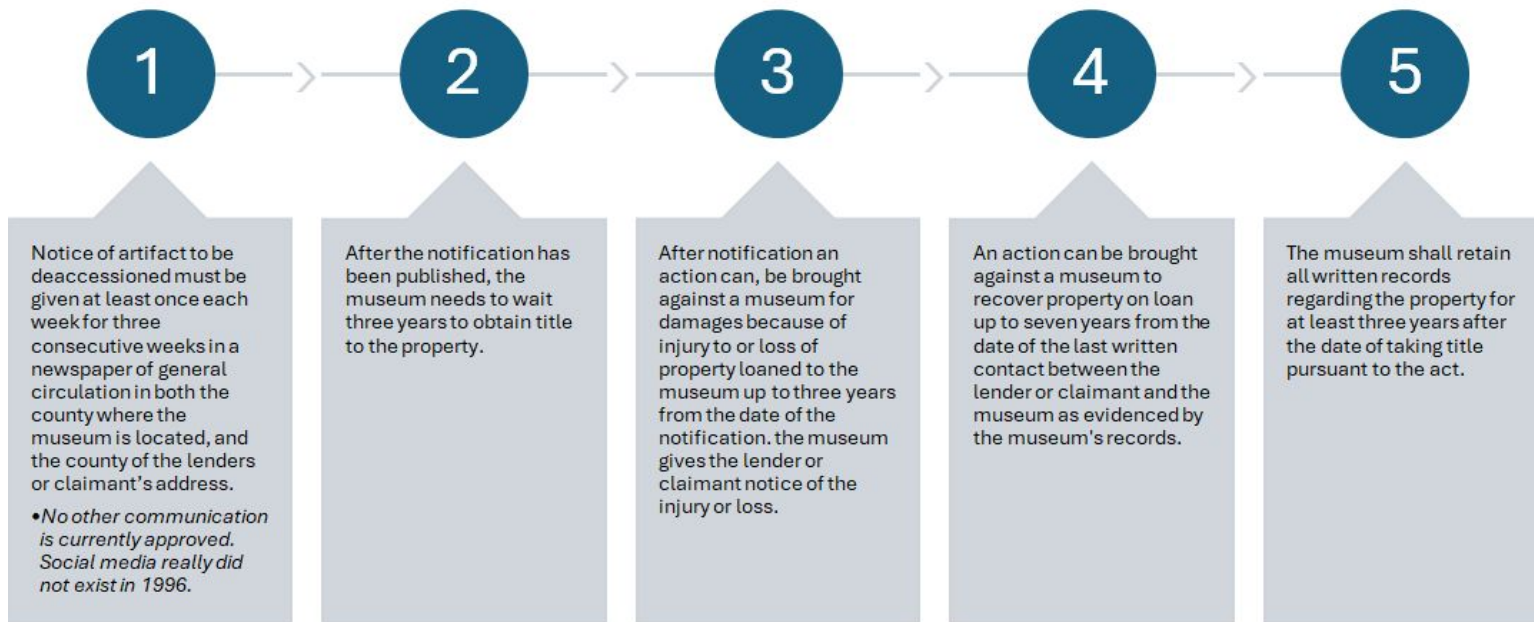
Lessons Learned cont.

- **Make sure your collections people aren't holding back in telling you what they want to change.**
 - I heard through the grapevine that collections people were having difficulty with the newspaper requirement in the undocumented property statute. I approached them with that issue in mind, so that's what we changed in the bill.
 - After that bill is drafted, one of the collections people asked me "What about the abandoned loans act, which has the same issues?" News to me! I later found out that some people would like to change the seven-year waiting period. So perhaps I approached everyone with too narrow a goal.
 - Next year, we will likely try to update both the abandoned property and loan statutes, and might also adjust the waiting period.
- **Don't narrow your options for announcements too much in the bill amendments (as long as you use the word "or").**
 - One of the Senators told us that they were worried that by only listed social media and newspapers, we were not being inclusive of the entire state. She wanted more options listed because of rural communities lack of newspapers and internet access—so bulletin boards, radio spots, even grocery store announcements.
- **Find an office you feel comfortable working with to ask for additional amendments.**
 - As we began to speak to offices about the process to gain ownership of undocumented property, we found that something that resonated with the offices was the seven year waiting period. They all seemed very amenable to shortening that period.
 - However, I really feel like Representative Carrick's office wasn't super interested in our bill. They were doing our Advocacy Chair a favor and I didn't feel comfortable going back to them to ask for additional changes based on what we heard in our meetings. Instead, I felt better about letting the bill time out and coming back next year.
 - We will be reintroducing the bill next year and will probably add adjustments to the waiting period and announcement options.

PA Museums

Nebraska Museums Association

Nebraska Revised Statutes, 51-702 through 51-712



Nebraska Museums Association

Add the option of public and online notices to publishing in newspapers

- Modes of communications of significantly changed & the options need to reflect that
- Museums will have the opportunity to choose from a variety of options: online, posting in a public area of the museum, & newspaper
- Modes of publication will be available for at least 3 consecutive weeks

Museum may acquire title after the organization has held the property for 1 year

- Previously the museum had to hold the object for 7 years and another 3 after publication
- Relieves the burden and cost of storage
- Digital media moves fast, one year is sufficient

Creating the same time frame for liability as we have for acquiring title

- Change from 3 years to 1 year from the date the contact or notice posted/published

Increase time museum shall retain all records from 3 years to 25 years

- More inline with professional standards
- Compares exactly to 51-710

Nebraska: LB926

Summary of purpose and/or changes:

LB 926 is a bill that proposes to modernize the method of communication museums in Nebraska use when notifying the public regarding undocumented items and unclaimed loans. The bill also makes changes to the length of time that must pass in order to respond to notice provided by the museum or bring an action to the museum for damages in the case of injury or loss of property loaned to the museum from three years down to one year.

The bill also proposes changing the timeframe to retain all records for at least 25 years, to meet the American Alliance of Museums required elements of collection's documentation and records. A state requirement of 25 years will help to guide those museums who may not have a Collections Management Policy.

Opposition: Nebraska Press Association

My office represents the Press Association and I've cc'ed the Press Association's executive director on this email. We would like to discuss our concerns with LB 926 as introduced and also know little more information from the museums you are working with on LB 926. The publishing of notice in a newspaper is an important step in independently verifying that an entity has complied with their statutory obligations, whether it be a county noticing an upcoming meeting, a city going out to bid for an expensive snow plow, or a museum in this case. . . . But we do typically weigh in when notice requirements are proposed to be eliminated in introduced legislation.

The Unexpected

(4) The changes made to this section by this legislative bill apply only to property acquired by the museum on or after the effective date of this act.

- Unclear communication from legislative sponsor
- Other Museum legislation
- Newspapers worried about losing revenue (is there anything to lose?)

Amending/Compromising

AM2904
LB926
LPB - 03/06/2024

AM2904
LB926
LPB - 03/06/2024

- 1 publication of a statement for one week at least once each week for three
- 2 consecutive weeks in a newspaper of general circulation in both the
- 3 county where the museum is located and the county of the lender's or
- 4 claimant's address, if any. The statement published in the newspaper must
- 5 contain (a) the museum's name and contact information, (b) notification
- 6 that the museum is acting to assert title, and (c) notification that
- 7 interested parties should contact the museum for a complete listing of
- 8 property to which the museum is asserting title.



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